

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

SPONGETECH DELIVERY SYSTEMS, INC.,

Case No. 10-13647 (SMB)

Debtor.

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**ORDER SCHEDULING HEARING TO CONSIDER THE TRUSTEE'S MOTION  
FOR ENTRY OF ORDERS: (I) UNDER BANKRUPTCY CODE §§ 105 AND 363  
AUTHORIZING AND APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S  
ASSETS TO A STALKING HORSE OFFEROR, SUBJECT TO HIGHER OR BETTER OFFERS,  
FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES, SUBJECT TO THE  
TERMS AND CONDITIONS OF AN ASSET PURCHASE AGREEMENT, GRANTING RELATED  
RELIEF AND WAIVER OF STAY UNDER BANKRUPTCY RULE 6004; (II) ESTABLISHING  
SALE AND NOTICE PROCEDURES, INCLUDING APPROVAL OF A BREAK-UP FEE FOR  
THE STALKING HORSE OFFEROR; (III) APPROVING SETTLEMENT OF CLAIM FOR  
INVENTORY STORAGE COSTS; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the estate of SpongeTech Delivery Systems, Inc. (the "Debtor"), by his attorneys, SilvermanAcampora LLP, seeking (i) the entry of an order (the "Sale Order"), pursuant to sections 105 and 363 of title 11, United States Code (the "Bankruptcy Code"), authorizing the Trustee's sale (the "Sale") of certain of the Debtor's assets (collectively, the "Assets"), including, but not limited to, the Debtor's intellectual property and certain inventory, but excluding litigation claims, to Andrew Tzanides and Chao Jiang, or their designee or assign (the "Stalking Horse Offeror") for \$500,000, subject to higher or better offers as may be tendered at a public auction sale, to be held on **April 11, 2011, at 1:00 p.m.** (the "Auction"), free and clear of all liens, claims, encumbrances, security interests and other restrictions on transfer (collectively, the "Liens"), except for among other things, intellectual property rights belonging to third parties that is embedded in the Debtor's inventory and works in progress being sold (the "Excluded Liens"), with such Liens, if any, to attach to the proceeds of the Sale in the same amount, priority and validity as they currently exist; (ii) the entry of an order (the "Sale Procedures Order") approving: (A) certain procedures for the Auction and subsequent closing (the "Auction Procedures"); (B) the form, time and scope of notice of the Auction (the "Notice Procedures, and collectively with the Auction Procedures, the "Sale

Procedures”); (C) a “break-up fee” of \$25,000 for the Stalking Horse Offeror in the event it is not the Successful Bidder at the Auction (the “Break-Up Fee”), and certain overbid protections described herein, (D) fixing the date for a hearing before the Court to approve the Sale, or as soon thereafter as counsel may be heard, and (E) waiving the stay provisions of Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”); (iii) approving, under Federal Rule of Bankruptcy Procedure 9019, the resolution of inventory storage fees being claimed against the Debtor by Dicon Technologies, LLC (“Dicon”); and (iv) granting related relief; and no adverse interest appearing or being represented; and due deliberation having been had; and sufficient cause appearing therefor; it hereby is

**ORDERED**, that a hearing shall be held before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton U.S. Custom House, One Bowling Green, New York, New York 10004 on **March 15, 2011, at 10:00 a.m.**, or as soon thereafter as counsel can be heard (the “Hearing”), to consider that portion of the Motion seeking to approve the Sale Procedures, schedule the Auction, schedule the Sale Hearing, and provide related relief, with all other relief sought in the Motion carried to the Sale Hearing; and it is further

**ORDERED**, that responses or answering papers to the Motion, if any, shall be: (i) made in writing; (ii) filed with the Court electronically in accordance with General Order M-399 by registered users of the Court’s electronic case filing system and, by all other parties in interest, mailed to the Clerk of the United States Bankruptcy Court, Alexander Hamilton U.S. Custom House, One Bowling Green, New York, New York 10004, on a 3.5 inch floppy disk with a hard copy delivered directly to the Chambers of the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton U.S. Custom House, One Bowling Green, New York, New York 10004; and (iii) served in accordance with General Order M-399 and a copy served upon and received by (A) SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: Brett S. Silverman, (B) the Office of the

United States Trustee, 33 Whitehall Street, 22<sup>nd</sup> floor, New York, New York 10004 (Attn: Elisabetta G. Gasparini, Esq.), (C) Rabinowitz, Lubetkin & Tully, LLC, 293 Eisenhower Parkway, Suite 100, Livingston, NJ 07039, Attn: Jay L. Lubetkin, so as to be received **no later than March 14, 2011 at 12:00 noon (EST)**; and it is further

**ORDERED**, that a copy of this Scheduling Order, Notice of Hearing and the Motion with all annexed Exhibits, shall be served via overnight carrier on the Special Service Parties<sup>1</sup>.

**ORDERED**, that the Trustee shall also serve the Scheduling Order, Notice of Hearing and proposed Bidding Procedure by first class mail on all other Service Parties; and it is further

**ORDERED**, that the Trustee shall serve the Shareholders by electronic mail if possible, or by posting this Order, the Notice of Hearing and the Motion with all annexed Exhibits on the Trustee's website for the Debtor's estate: [www.Spongetechtrustee.com](http://www.Spongetechtrustee.com); and it is further

**ORDERED**, that any interested party wishing to make a competing offer for the Assets or requiring additional information with respect to the Sale, or the Asset Purchase Agreement may contact SILVERMANACAMPORA LLP, at 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: Brett S. Silverman, (516) 479-6300, [BSilverman@SilvermanAcampora.com](mailto:BSilverman@SilvermanAcampora.com); and it is further

**ORDERED**, that proof of service in accordance with this Order shall be filed prior to the Hearing; ~~and, it is further~~

~~**ORDERED**, that pending the Hearing, the Trustee is hereby authorized and approved to do SMB 3/8/11 such things, execute such documents, and expend such funds as may be necessary and consistent with this Order~~

Dated: New York, New York  
March 8, 2011

/s/ Stuart M. Bernstein  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

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<sup>1</sup> All Capitalized terms not defined herein shall have the same meaning ascribed to them in the Motion.